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NOT FOR PUBLICATION

DEC 08 2006

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

JOHN CLARK,)	No. 05-56399
)	
Plaintiff-Appellant,)	D.C. No. CV-04-03632-WMB-FMO
)	
v.)	MEMORANDUM*
)	
LAWRENCE HARVEY ZEIGER)	
aka LARRY KING; CABLE NEWS)	
NETWORK LP, LLLP.; TURNER)	
BROADCASTING SYSTEM, INC.,)	
)	
Defendants-Appellees.)	
_____)	

Appeal from the United States District Court
for the Central District of California
Wm. Matthew Byrne Jr., District Judge, Presiding

Submitted December 4, 2006**

Before: GOODWIN, LEAVY, and FISHER, Circuit Judges.

John Clark appeals pro se the district court's Fed. R. Civ. P. 12(b)(6)
dismissal of his diversity action against Lawrence Harvey Zieger aka Larry King,

* This disposition is not appropriate for publication and may not be cited to or
by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral
argument. Fed. R. App. P. 34(a)(2).

Cable News Network, LP, and Turner Broadcasting System, Inc., alleging defamation, libel, slander, assault and interference of judicial processes. For the reasons set forth in Judge Byrne's order dated August 4, 2005, granting appellees' motion to dismiss, we affirm.

Clark's other arguments on appeal are equally meritless. Clark was not entitled to discovery prior to dismissal because it is a purpose of Rule 12(b)(6) to allow a defendant to challenge the legal sufficiency of a complaint's allegations without first subjecting itself to discovery. See Rutman Wine Co. v. E. & J. Gallo Winery, 829 F.2d 729, 738 (9th Cir. 1987). The Rule 12(b)(6) dismissal of Clark's complaint also did not violate Clark's right to a jury trial under the Seventh Amendment. Lies v. Farrell Lines, Inc., 641 F.2d 765, 771 n.8 (9th Cir. 1981).

AFFIRMED.